REMARKS

The Office Action dated September 24, 2004, has been received and carefully reviewed. The following remarks form a full and complete response thereto. Claims 1-21 remain pending in this application. Further reconsideration is requested.

Claims 1-21 were rejected as being unpatentable over U.S. Patent No. 5,905,974 to Fraser et al. ("Fraser") in view of U.S. Published Application No. 2002/0019795 to Madoff et al. ("Madoff"). The Applicant respectfully traverses the rejection and submits that claims 1-21 recite subject matter not disclosed or suggested by the combination of cited prior art.

Claim 1 of the present invention, upon which claims 2-10 depend, defines computer-implemented method for identifying a price at which to conduct a batch auction of a financial security. The method includes a step of accepting a plurality of order requests from a plurality of sources, said order requests containing orders representing a desire to trade the financial security within certain order parameters. The price at which to trade the security is selected, including a step of determining whether there exists at least one order on each side of a trade containing a price as an order parameter such that at least one purchase price is higher than or equal to at least one selling price, and if so determining from the priced portion of the orders whether there exists a single price at which a maximum number of shares of the security will be traded, and, if so, selecting the single price as a selected price. If there does not exist such a single price, calculating an imbalance ratio of purchase requests of the security to sale requests of the security, and determining the selected price based on the result

of a comparison of the imbalance ratio to a predetermined reference value. If no orders on opposite sides of a trade contain intersecting prices, then a predetermined reference price is selected as the selected price. A number of shares of the security are exchanged at the selected price.

Claim 11, upon which claims 12-20 depend, defines a computerized apparatus for identifying a price at which to conduct a batch auction of a security. The apparatus includes a computerized network having at least two computers in electronic communication with each other. The apparatus further includes an order receiving program running on one or more of the computers. The receiving program is designed to receive a plurality of messages containing orders from one or more qualified participants. An order book database is located on one or more of the computers. The order book database communicates with the order receiving program and stores each of the orders received by said receiving program. A price selection program runs on one or more of the computers, wherein the price selection program refers to the order book database and calculates a single selected price at which to transact a maximum number of shares of the security during the batch auction. The single selected price is determined differently according to whether or not intersecting orders exist in the order book database. A batch auction execution program runs on one or more of the computers, wherein the execution program executes the batch auction of the maximum number of shares of the security at a given execution time at the selected price.

Claim 21 defines a computer-implemented method for conducting a security batch auction cycle for an security at a single price. The auction cycle includes an order acceptance period, a price discovery period, and an order execution period. The method comprising a number of steps, each of which are implemented by a computer. During the order acceptance period, requests to enter auction orders into an order book are accepted. During the price discovery period, it is determined whether the orders will intersect. If the orders intersect, one or more prices at which the batch auction cycle would produce a maximum number of executed shares are identified. One of the one or more prices are selected as an optimal price. The optimal price is set as the single price. If the orders do not intersect, a reference price is selected, and the reference price is set as the single price. During the order execution period, a trade of the maximum number of shares is executed at the optimal price.

Fraser fails to describe or suggest a step for or program that determines one or more prices at which the batch auction cycle would produce a maximum number of executed shares are identified. As described in Applicant's amendment dated May 26, 2004, Madoff also fails to disclose this feature. See Applicant's May 26, 2004 Amendment at page 9. Thus, Madoff fails to make up for the deficiencies of Fraser.

For at least the foregoing reasons, the Applicant submits that no combination of the cited prior art shows or suggests each and every feature of claims 1-21. Accordingly, the Applicant requests that the rejection of claims 1-21 be withdrawn and that claims 1-21 be allowed.

In view of the foregoing, claims 1-21 are submitted to be now in condition for allowance. Favorable reconsideration of this application and the issuance of a Notice of Allowance are earnestly solicited.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

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